



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0083; Notice 1]

#### Cooper Tire & Rubber Company, Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** Cooper Tire & Rubber Company (Cooper Tire) has determined that certain Cooper Discoverer AT3 tubeless radial light truck tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. Cooper Tire filed a noncompliance report dated July 6, 2020. Cooper subsequently petitioned NHTSA on July 31, 2020, and supplemented its petition on May 28, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Cooper Tire's petition.

**DATES:** Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to [https://www.regulations.gov](https://www.regulations.gov/), including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at [https://www.regulations.gov](https://www.regulations.gov/) by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

## **SUPPLEMENTARY INFORMATION:**

**I. Overview:** Cooper Tire has determined that certain Cooper Discoverer AT3 tubeless radial light truck tires do not fully comply with the requirements of paragraph S.5.5.1 of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). Cooper Tire filed a noncompliance report dated July 6, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Cooper Tire subsequently petitioned NHTSA on July 31, 2020, and supplemented its petition on May 28, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Cooper Tire's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

**II. Tires Involved:** Approximately 271 Cooper Discoverer AT3 tubeless radial light truck tires, size LT 245/75R16, manufactured between May 3, 2020, and May 31, 2020, are potentially involved.

**III. Noncompliance:** Cooper Tire explains that the noncompliance is that the subject tires were manufactured having additional characters representing the press location inserted into the tire identification number (TIN) and therefore, do not meet the requirements of paragraph S5.5.1 of FMVSS No. 139. Specifically, the additional grouping of characters representing the press location are inserted before the date code. The subject tires were manufactured with "UT 11 1M1 V02R 1820," when they should have been manufactured with "UT 11 1M1 1820," followed by V02R.

**IV. Rule Requirements:** Paragraph S5.5.1(b) of FMVSS No. 139 includes the requirements relevant to this petition for tires having an intended outboard sidewall. Each tire must be labeled

with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire. Either the tire identification number or a partial tire identification number, containing all characters in the tire identification number, except for the date code and, at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire.

**V. Summary of Cooper Tire’s Petition:** The following views and arguments presented in this section, “V. Summary of Cooper Tire’s Petition,” are the views and arguments provided by Cooper Tire. They have not been evaluated by the Agency and do not reflect the views of the Agency. Cooper Tire described the subject noncompliance and stated their belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Cooper Tire submitted the following reasoning:

1. Cooper Tire says that while the 271 tires in the subject population contain an additional grouping of letters/numbers before the required date code on the intended outboard sidewall, these tires are in all other respects properly labeled and meet all performance requirements under the FMVSSs. The additional press location grouping has no bearing on the performance or operation of the tires and does not create a safety concern to either the operator of the vehicle on which the tires are mounted, or the safety of personnel in the tire repair, retread, and recycling industry.
2. Tires produced by manufacturers that continue to use two-digit plant codes (available through 2025) can have TINs that vary in length depending on the use of the optional brand name owner code. The addition of the press location (V02R), while incorrectly placed on the tire, will not cause confusion for the consumer or dealer that is selecting and mounting the tire. Consumers/dealers will continue to see the date code appear at the end of the series of letters and numbers that begin with “DOT.” NHTSA’s guidance states that “the last four digits of the TIN show the week and year of

- manufacture.”<sup>1</sup> That guidance is still accurate here. Consumers and dealers will be able to easily identify the date of manufacture (week/year).
3. Tire registration and traceability will not be interrupted. Cooper Tire’s internally controlled online registration system has been modified to be able to accept the TINs with the additional press location grouping. Any tires registered with that TIN will be identified and recorded properly. This will ensure that Cooper Tire is able to identify these tires in the event they must be recalled.
  4. Cooper states that NHTSA has granted a number of previous inconsequentiality petitions relating to out-of-order or mislabeled TINs, provided that the mislabeling does not affect the manufacturer’s ability to identify the tires. “The purpose of the date code is to identify a tire so that, if necessary, the appropriate action can be taken in the interest of public safety-such as, a safety recall notice.”<sup>2</sup> Accordingly, Cooper states that NHTSA has explained in multiple instances that “[t]he Agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the ability of the tire manufacturer to identify the tires in the event of recall.”<sup>3</sup>
  5. As a result, Cooper states that NHTSA has granted petitions and found that TIN noncompliance is inconsequential to safety in cases where the TIN is out of sequence or mislabeled. Cooper cited the following examples:
    - a. Bridgestone Firestone North America Tire, LLC, Grant of Petition, 71 FR 4396, January 26, 2006, (granting petition where date code was missing because manufacturer could still identify and recall the tires).

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<sup>1</sup> See NHSTA’s “Safety in Numbers,” June 2013, Volume 1, Issue 3, available at [https://www.nhtsa.gov/nhtsa/SafetyInNum3ers/june2013/9719\\_images/9719\\_S1N\\_Tires\\_Nwsltr\\_June13\\_062713\\_v4\\_tag.pdf](https://www.nhtsa.gov/nhtsa/SafetyInNum3ers/june2013/9719_images/9719_S1N_Tires_Nwsltr_June13_062713_v4_tag.pdf).

<sup>2</sup> See Bridgestone/Firestone, Inc.; Grant of Application for Decision of Inconsequential Noncompliance, 64 FR 29080 (May 28, 1999); see also Cooper Tire & Rubber Company, Grant of Application for Decision of Inconsequential Noncompliance, 68 FR 16115 (April 2, 2003) (same).

<sup>3</sup> See Bridgestone/Firestone, Inc., Grant of Application, 66 FR 45076 (Aug. 27, 2001).

- b. Cooper Tire & Rubber Company, Grant of Application, 68 FR 16115, April 2, 2003, (granting petition where tires were labeled with wrong plant code, because “the tires have a unique DOT identification”).
  - c. Bridgestone/Firestone, Inc., Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety, 66 FR 45076, August 27, 2001, (granting petition where the date code was labeled incorrectly, because “the information included on the tire identification label and the manufacturer’s tire production records is sufficient to ensure that these tires can be identified in the event of a recall”).
  - d. Bridgestone/Firestone, Inc.; Grant of Application for Decision of Inconsequential Noncompliance, 64 FR 29080, May 28, 1999, (granting petition where the wrong year was marked in date code on the tires).
  - e. Cooper Tire & Rubber Company; Grant of Application for Decision of Inconsequential Noncompliance, 63 FR 29059, May 27, 1998, (granting petition where date code was missing where tires had a unique TIN for recall purposes).
  - f. Bridgestone/Firestone, Inc.; Grant of Application for Decision of Inconsequential Noncompliance, 60 FR 57617, Nov. 16, 1995, (granting petition where date code was out of sequence).
  - g. Uniroyal Goodrich Tire Company; Grant of Petition for Determination of Inconsequential Noncompliance, 59 FR 64232, December 13, 1994, (granting petition where week and year were mislabeled on tires).
6. Cooper will be able identify the tires that are the subject of this petition in the event of recall. As described above, these tires will have a unique DOT identifier that will allow for Cooper to identify and recall them in the event that any issues arise in the

future.

7. Cooper Tire states that it has taken steps over the last few years to add additional checks in its processes to prevent TIN errors. Cooper tire is undertaking additional process reviews at this time including measures such as color coding portions of the mold, making software changes to remove manual data entry, and adding additional visual quality checks of the molds when information is changed. Cooper Tire is also reviewing its inspection processes to ensure that any errors are identified earlier and/or prevented before they occur.

Cooper Tire concluded by expressing the belief that the subject noncompliances are inconsequential as they relate to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that Cooper Tire no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant buses under their control after Cooper Tire notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

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